

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 500 OF 2007

Smt. Sampada Umesh Mhatre
and Ors.

....Petitioners.

V/s

The State of Maharashtra & Ors.
Respondents.

....

Mr. S.M. Oak i/b Ms. Nayana Thatte for Petitioners.

Mr. U.A. Sonpal, AgP for Respondent Nos. 1 & 4.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.

DATE : 12th December, 2007.

P.C.:

1. By this Petition, the Petitioners challenge the order passed by the Maharashtra Administrative Tribunal. Before the Maharashtra Administrative Tribunal, the action of the Government of giving seniority to the Petitioners in the cadre of steno-typist from 16th July, 1998 was challenged. The Petitioners were holding the post of steno-typist which was borne on the cadre of clerk-cum-typist. A resolution was issued on 1st July, 1978 providing for giving option to the persons who were holding the post of steno-typist in the clerical grade to opt for the post of steno-typist in higher pay-scale but, where, there are no chances of promotion. It appears that, pursuant to this Government Resolution, the

Petitioners exercised their option. In 1988, a Circular was issued by the Government, pointing out that an objection has been raised by the Finance Department that unless, for accommodating the persons who have given option pursuant to the resolution dated 1st July, 1978 posts of steno-typist are created in the higher grade, they cannot be accommodated. For that purpose, Government Resolution dated 16th July, 1998 was issued and those steno-typists on the clerical grade who had exercised option, were given the grade of steno-typist and, therefore, the Petitioners have been given placement in the seniority of steno-typist from the date of the Resolution which creates the posts.

2. The submission of the learned Counsel appearing on behalf of the Petitioners is that the Petitioners should have been given seniority in the post of steno-typist from the date on which the option was exercised by them. In our opinion, the submission is not well founded because the date on which the option was given, the post in relation to which the option was given itself was not in existence. That post came into existence when the Government sanctioned the creation of the posts and, therefore, in our opinion, the Government has rightly given seniority to the Petitioners from the date on which the posts were created. We do not see any patent illegality in the impugned order. Petition is rejected.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)